

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of the Subscriber Carrier)	
Selection Changes Provisions of the)	CC Docket No. 94-129
Telecommunications Act of 1996)	
)	
Policies and Rules Concerning)	
Unauthorized Changes of Consumers')	
Long Distance Carriers)	

COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF OHIO

INTRODUCTION AND BACKGROUND

On March 17, 2003, the Federal Communications Commission (FCC) released a Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking inviting comment on the need for additional minimum requirements for third party verification (TPV) calls. The FCC invitation for comments was issued in an effort to enhance the efficiency and accuracy of the third party verification process for the benefit of consumers, carriers and the FCC.

The FCC has declined to mandate specific language to be used for third party verification (TPV) of changes in telecommunications providers, but has instead adopted minimum content requirements. These requirements include the identity of the subscriber, confirmation that the person on the call is authorized to make the carrier change, confirmation that the person on the call wants to make the change, the names of the carriers affected by the change, the telephone numbers to be switched and the types of services involved. The FCC has also required that the third party verification be conducted in the same language as that used in the underlying sales call and the entire transaction must be recorded. Those recordings must be maintained and preserved for no less than two years from the verification date. Therefore, the event of a slamming dispute, a recorded verification would assist in determining the intent of the subscriber in switching telecommunication providers.

The Public Utilities Commission of Ohio (PUCO or Ohio Commission) hereby submits its comments responding to the FCC's March 17, 2003, Second Further Notice of Proposed Rulemaking.

DISCUSSION

The FCC seeks comment on whether third party verifiers should state the date during the taped verification process. NPRM ¶ 111, 44. The PUCO supports the proposal of requiring that the date be stated during the third party verification process. The PUCO has received a number of slamming complaints involving situations whereby the customer switched telecommunications carriers and then was switched back by the previous carrier. Requiring the date as part of the third party verification process would make it much more difficult for a carrier to use a previous tape as proof of authorization for the most recent switch.

Additionally, the FCC seeks comment whether verifiers should be required to make clear to consumers that they are not verifying an intention to retain existing service, but are in fact, asking for a carrier change. NPRM ¶ 113, 45. Based upon consumer complaints received at the PUCO and the results of subsequent investigations, the PUCO supports the FCC's proposal. Experience shows that some carriers are seeking to obtain consumers' authorization for a carrier change but that they are consenting to an "upgrade" of their service or consolidation of their local and toll bills. This proposal is also consistent with the FCC's current slamming rules, which require all third party verifiers to elicit from the consumer "that the person on the call wants to make the carrier change." 47 C.F.R. 64.1120(c)(3)(iii) (West 2003).

The PUCO has received numerous complaints regarding telephone solicitors who promise the customer that his or her carrier would not be changed. Consumers are advised that in order to receive a discount on their current service, they must say "yes" to the verifier's questions and provide additional information to the verifier. This results in an unintended carrier change. Thus, the lack of a notice to consumers that a carrier change is taking place represents a major problem with the current TPV process. Consumers are forced to rely on the word of the marketer/solicitor. The PUCO recommends that additional information should be included in the TPV process so that the consumer has full understanding that he is switching to a different carrier. The TPV process must include a statement of the terms and conditions that will be provided, including but not limited to: (a) the service(s) to be provided; (b) the total price for the service and the price for each separate service; (c) approximate service commencement date; (d) length of the contract term, if applicable, and contract termination date (and any fees for cancellation prior); (e) material limitations, conditions or exclusions; (f) fees or costs; (g) whether the carrier will run a credit check or require a deposit, including the amount; and (h) which company will bill for the carrier. The TPV representative should obtain verbal acceptance from the customer regarding this information.

The FCC also notes that it can be difficult to ascertain whether a consumer has “fully and knowingly” provided an answer to each question posed by a third party verifier if some questions are presented as a group rather than individually. As noted above, consumers are sometimes confused about what, in fact, they are agreeing to when speaking to a third party verifier. The TPV process is largely unfamiliar to many consumers and grouping questions together increases the likelihood that consumers will not have an understanding of the transaction. Therefore, the third party verifier should gather, under the FCC rules, each piece of information, and should then be the subject of a separate and distinct third party verifier inquiry and subscriber response. The questions asked by a third party verifier are not so numerous that they cannot be asked and answered separately.

Finally, the FCC seeks comment on whether, when verifying an interLATA service change, the verifier should specify that interLATA service encompasses both international and state-to-state calls, and whether a verifier should define the terms “intraLATA toll” and “interLATA toll” service. The PUCO agrees with the FCC observations that carriers, “sometimes use differing terms for these services” and this has contributed to the complaints from consumers who state that they “unknowingly gave up the flat rate for the intraLATA service they paid to their LEC when consenting to the carrier change

for different services". The use of undefined terms has, in the state of Ohio, caused great confusion for the consumer and has thus resulted in numerous complaints to the PUCO. Consumers are generally unaware of the meaning of such terminology as interLATA and intraLATA. The verifier should explain the meaning of these terms and confirm that the consumer understands the terms.

CONCLUSION

The Ohio Commission thanks the FCC for the opportunity to file comments in this proceeding.

Respectfully submitted,

**On Behalf of The Public Utilities
Commission of Ohio**

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